

version, thus: "and all the tenements and appurtenances situate thereon." It is said that the Hawaiian words, "a me na mea e pili pono ana," are of very broad in their signification to carry with them the appurtenances to the land embraced in the deed, and that the court ought to regard the Hawaiian version of the deed as controlling, and must therefore be presumed to have intended, for two reasons: first, because the grantor herself was a native, and a person of intelligence, and must therefore be presumed to have intended to convey whatever would pass under the deed, as expressed in her own language; and, secondly, because the court has decided in several previous cases that, in construing the laws of the kingdom, which are enacted in both languages, wherever an irreconcilable difference exists between the two versions, the Hawaiian must prevail.

On the other hand, it is argued that the grantor, who is an Englishman, received the deed in English, and must therefore be presumed to have intended the exact counterpart of the Hawaiian, and that he is bound by the English version; that the deed is in both versions forms but one instrument, and that if the language of one is altogether inconsistent with that of the other, which, however, is not the case, the proper course would be to declare the instrument void for uncertainty.

It involves a question of considerable magnitude, the decision of which may affect the rights and interests of many individuals throughout the kingdom. After careful reflection upon the point, and of the opinion that it would be both unsafe and unreasonable, for the court to hold that the Hawaiian, and not the English version, should prevail in this instance, if the difference contended for by the defendant does really exist, which, we are not clear. It is true this court has recently ruled, as stated by the defendant, that, in the case of an irreconcilable difference between the Hawaiian and English versions of a statute, the former shall control; (See *Metcalf vs. Kahai*, Rep. p. 225; *Hardy vs. Ruggles et al.*, Ibid, p. 100.) but, it seems to us that the same consideration which constrained the court so to decide in that case, do not exist in the present instance.

As before us, with the exception of those cases in which it is descriptive, consists of a formula, in the two languages, which has been extensively used here, in dealings between natives and foreigners, since the enactment of laws governing conveyances of real estate to be made in English. The English version of this formula is, in fact, the original, and the Hawaiian merely a translation. There do not exist in the Hawaiian language, two words which would exactly represent two English words, *tenements* and *hereditaments*. The exact legal signification of those words could not be expressed in Hawaiian without difficulty, and therefore, words, which if used in other connection, or under other circumstances, would convey a widely different meaning, when used in the printed formula of conveyance before us, been accepted by the general public of natives and foreigners using such formula meaning precisely the same things, and more nor less than those two legal terms.

When as purely legal phraseology, or words of technical import, are concerned, it would seem unsafe and unreasonable, to hold that the Hawaiian translation, and not the English original, should govern, when a question arises upon construction of any part of the deed, where the legal or technical language is used. Such a rule would unbar the door to endless litigation, and add to the confusion of our courts in a maze of uncertainty.

As the conveyance by the owner of a *kuleana*, of a part of his land to another, would create such a tenancy in the grantee as would entitle him to a common right of piscary, so, in our opinion, the conveyance to Isaac Montgomery, by M. Kekauonohi, of a part of the ahupuaa, created such a tenancy, as carries with it, as an appurtenance thereto, under our laws, a common right of piscary subject, always, to the rights of the grantor, and her legal representatives.

No specific damage having been proved by the plaintiff, we think he is only entitled to recover nominal damages. Let judgment be entered for the plaintiff, as of the last day of term, in the sum of five dollars damages, together with the costs of suit.

A. B. Bates, Esq., for the Plaintiff.  
J. Montgomery, Esq., for the Defendant.

## GENERAL ADVERTISEMENTS.

## New Goods! New Goods!!

JUST RECEIVED AND FOR SALE BY THE UNDERSIGNED—  
Oyster crackers, soda crackers, butter crackers, Wine crackers, water crackers, ginger snaps, Jenny Lind cakes, smoked herrings, refined lard, Crushed sugar, dried apples, split peas, corn meal, English dairy cheese, sugar cured hams, Codfish, Carolina rice, white beans, California onions, Cranberries, macaroni, vermicelli, Zante currants, citron peel, soft shell almonds, Nutmegs, super Oolong tea, super green tea, Indian corn, new hops, English walnuts, Hbbls Haxall flour, 2-lb tins oysters, 1-lb tins oysters, 1 and 2-lb tins lobsters, 2-lb tins clams, 1-lb tins ass'd meats, 1-lb tins sausage, 1-lb tins game, 4 and 4 boxes sardines, 1 and 2-lb tins green peas, 2-lb tins turnips, 1-lb tins green corn, 2-lb tins peaches, 2-lb tins quinces, 2-lb tins pears, 2-lb tins damsons, 2-lb tins green gage, 2-lb tins prunes, 2-lb tins apricots, 2-lb tins cranberry jam, 2-lb tins cranberry sauce, 2-lb tins currant jelly, 1-lb tins raspberry jam, 1-lb tins strawberry jam, Ass'd English jams, bloater paste, American pickles, English pickles, English mustard, cassia and allspice, Cloves, ginger, cream tartar and soda, Saleratus and black pepper, tomato ketchup, Olive oil and lemon syrup, raspberry vinegar, English pie fruits, caper and pepper sauce, Chutnee and ass'd sauces, India curry powder, Ass'd herbs, cayenne pepper, caraway seed, Yeast powder, French mustard, bottles candles, Pembroke salt, Spanish olives, stearine candles, Cider vinegar, corn starch, super chewing tobacco, Anchovies and salt, pearl sago, tapioca, Mess pork, Mason's blacking, pain-killer, Dupont powder, Castile soap, fine cut tobacco, Bags California flour, corn brooms, brown soap. Constantly on hand—  
**Fresh Ground Coffee.**  
T. MOSSMAN & SON.

25-tf

## BREAD, BREAD.

16 LOAVES OF GOOD BREAD FOR ONE DOLLAR! AT THE Store of C. BRINIG, corner of Hotel and Mauna Kea sts. 35-tf

## HOUSES, LANDS, &amp;C.

CHAMBERS, TWO IN SUITE.  
TO BE LET—EDEN CHAMBERS, on Nuanu street. Rent for every two rooms \$20 per month, payable in advance.  
Apply to Mr. GEORGE WENTZEL, who lives on the premises. 28-tf

To be sold or let.  
TWO VILLAS, each with every convenience for a family, in Nuanu Valley, close to Rosebank Apply to MRS. PATY, on the premises—or in Honolulu to R. C. WYLLIE, or C. C. HARRIS. Honolulu, Nov. 30, 1855. 30-tf

FOR SALE.  
SEVERAL COTTAGE SITES in the Valley adjoining the Village of Honolulu—consisting of highly productive Kalo lands, with never failing streams of water, and a fish pond. Also, a Tract of four lots on the plains, bounded by three streets. Enquire at this office. 34-tf

To Let,  
For a term of five years, or more, on reasonable terms, that portion or LOT OF LAND, situated on Waikiki Plain (adjoining the lots on Thomas' Square), and belonging, in fee simple, to Mr. Joseph Henry Ray.  
For Terms and other particulars, apply by letter addressed to Mr. JOSEPH HENRY RAY, or his Attorney care of the Postmaster, Honolulu. 29-tf

For Lease!  
THAT VALUABLE TRACT OF LAND SITUATED in Manoa Valley, belonging to the estate of E. M. Rogers, deceased, upon which is a Wooden House of respectable dimensions. Persons desirous of leasing the above will negotiate with the undersigned. G. P. JUDD, Administrator of the estate of E. M. Rogers, deceased. Oct. 22, 1857. 25-tf

FOR SALE OR RENT.  
THE TWO-STORY STONE PREMISES, known as the BULL'S HEAD MARKET, situate on Merchant street, and heretofore occupied by F. Bertelmann. The house, provided with water from the government pipes, and built with the utmost care, has superior accommodations in every respect; a very large, deep and very dry cellar, which is particularly adapted to storage of provisions; a cool and spacious room, used as a Butcher Shop, and well fitted for any business, and an upper story, containing three commodious rooms, with a verandah on each side of the house.  
The yard has an entrance for horses and carriages, and a stable for two horses. Inquire of 19-tf S. SPENCER.

For Sale or to Let.  
THAT Desirable Residence corner of Fort and Chaplain sts. Possession given on the 1st of January next. Enquire of J. FULLER, at the Office of the Board of Education. Honolulu, Oct. 2, 1857. 22-tf

TO RENT!  
THE COTTAGE and Ground adjoining, on the Nuanu road, at present occupied by the Rev. J. D. Strong. Possession given on the 1st of December next. Apply to 18-tf W. H. PEASE.

For Sale or to Let!  
THE DWELLING PREMISES formerly belonging to Rob't G. Davis, situated between Dr. Wood's and C. R. Bishop's residences. Terms easy. Apply to [12-tf] ASHER B. BATES.

Cottage to Let.  
TO LET—THE HOUSE NOW OCCUPIED by Thomas Brown, in Nuanu Valley, makai of the residence of E. O. Hall. Register Office, May 1, 1857. 52-tf

For Rent or Lease.  
THE well-known Hospital Premises on Waikiki Plains, with all the improvements necessary for the comfort of a family.  
These premises comprise an area of about ten acres, and are well fenced. Apply to 42-tf JOSEPH BOOTH, National Hotel.

TO LET OR LEASE.  
THE SUBSCRIBER would in form the PUBLIC that, the large and commodious BALL ROOM of the National Hotel, with Chandeliers, Furniture, &c., is offered for rent by the month, week, or single night.  
This room is particularly adapted to Concerts, Theatrical Representations, Clubs and public assemblies. It is cool and airy, and has a wide and pleasant verandah. It can seat an audience of 500 persons. Terms very liberal.  
Enquire of JOSEPH BOOTH, at the National Hotel. 20-tf

ROOMS TO LET—from \$1 per week. Apply to S. JOHNSON, House Carpenter, 52-tf

To be Sold or Let.  
A LARGE and commodious residence in Nuanu Valley, about a mile and a half from town. Terms moderate. Apply to W. L. GREEN. Honolulu, June 14th, 1856. 6-tf

TO LET.—Sleeping Rooms. Enquire of Mr. HUMPHREYS, Garden street. 1-tf

To Lease.  
STORE LOTS ON FORT STREET, BETWEEN King and Hotel streets. Enquire of May 1, 1857.—52-tf A. J. CARTWRIGHT.

## GOOD AND CHEAP WINES &amp; LIQUORS

In Quantities to suit Purchasers.

CHAMPAGNE in pints and quarts;  
Extra Fine CLARETS;  
Common do.;  
Superior SAUTERNE;  
RHENISH WINES;  
MUSCAT;  
PORT WINE; MADEIRA;  
Choice BRANDIES;  
PEPPERMINT and ANNISSETTE;  
Genuine HOLLANDS GIN;  
Common GIN;  
OLD TOM;  
KIRSCHWASSER, etc. etc.  
For sale by

## MELCHERS &amp; CO

## GENERAL ADVERTISEMENTS.

RITSON & HART,  
DEALERS IN WINES AND SPIRITS.  
AT THE OLD WINE STORE, Foot of Kaahumanu St., offer for sale  
BRANDY in kegs and barrels;  
" Martell's;  
" United Vineyard Proprietors;  
" Sazarac;

RUM in kegs;  
JAMAICA RUM in cases;  
Genuine OLD SCOTCH WHISKY, in 1 doz cases;  
MONONGAHELA WHISKY, in bbls. & kegs;  
Fine OLD MONONGAHELA WHISKY in 1 doz. cases.

HOLLANDS GIN in cases;  
SCHEIDAM GIN in cases;  
Wolfe's SCHEIDAM SCHNAPPS;  
HOSTETTER'S BITTERS;  
BOKER'S  
STOUGHTON'S  
CLARETS of different kinds;  
HOCKHEIMER;  
SAUTERNE;  
CHAMPAGNE, pints and qts., different brands  
SHERRIES, Pale and Brown;  
Fine OLD PORT;  
Byass' and other brands of ALE,  
PORTER;  
LIQUEURS.  
46] Ships' Stores, Duty Free. [tf

## TOBACCO!

## CIGARS AND SNUFFS!

J. STEWARD RESPECTFULLY INFORMS his friends and the public generally, that he has now on hand an extensive assortment of the above articles, all of the choicest brands. He will always have on sale as complete a stock as is procurable in the market. He offers the following articles, all of the first quality, on reasonable terms:

Anderson's Solace,  
Buffalo Chips,  
Citron,  
Morning Glory,  
J. Patrick & Co.'s Diamond P.  
Honey Dew,  
Golden Leaf,  
Luscious Luxury,  
Natural Leaf,  
Richmond 8's,

Varina's Canister,  
Spanish Mixed,  
Aromatic,  
Let her Rip,  
Manila Cigars No. 2, twist ends,  
" Cheroots,  
" Havana Cigars in fancy boxes,  
Fancy Snuffs, etc.

ALSO—A General Assortment of GROCERIES  
Hotel street, near the French Hotel. 8-3m\*

Pale and Golden Sherries and Port.  
JUST RECEIVED PER "GAMBIA," FROM Tuke, Holdsworth & Co., London, bottled genuine

"Vino Seco de Xeres de la Frontera."  
Also on hand, a small quantity of the well known GENUINE FRUITY PORT,  
from the same London House. For sale by ED. HOFFSCHLAGER & STAPENHORST. 49-tf

JUST RECEIVED.  
CALIFORNIA CHEESE,  
HALF BOXES RAISINS,  
JUJUBE PASTE,  
For sale by (16-tf) T. MOSSMAN & SON.

NEW INVENTION!—TIN BAKERS.  
THE SUBSCRIBER IS NOW MANUFACTURING AND offers for sale, at his Tin Shop, Kaahumanu Street, opposite Makee's brick store, Lockwoods Patent Tin Baker, which for the use of a family, will be found to excel anything of the kind ever seen here. It is light, takes up but little room, and may be used for either Coal or Wood. Price \$10 each, with bake pans and kettle. 46-tf JAMES LOCKWOOD.

PRESERVED TAMARINDS.  
PRESERVED TAMARINDS FOR SALE PRICE 50 CTS. per pound. Enquire at the National Hotel. 41-tf JOSEPH BOOTH

Portraits of His Majesty.  
A FEW COPIES of the finely executed lithographic portrait of His Majesty the King, are for sale by the subscriber. The picture is 22 by 26 inches in size, and can be procured unframed or in fine gilt frames, neatly made.  
Price in gilt frames, \$10.00 each, in the sheet unframed, \$3.00 each.  
Persons ordering from the other Islands, can have the portraits packed and sent by the first vessel. 56-tf H. M. WHITNEY.